



April 29, 1999

Mr. John Steiner
Division Chief
Law Department
City of Austin
P.O. Box 1546
Austin, Texas 78767-1546

OR99-1176

Dear Mr. Steiner:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123689.

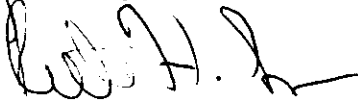
The City of Austin (the "city") received a request for certain information that you contend is "directly related to the subject matter of a complaint filed with the U.S. Equal Employment Opportunity Commission and the Texas Commission on Human Rights." You assert that the records are protected from disclosure under section 552.103(a) of the Government Code. To show that section 552.103(a) is applicable, a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to the litigation. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.--Austin, 1997, no pet.), *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.), Open Records Decision No. 551 at 4 (1990). This office has stated that a pending Equal Employment Opportunity Commission ("EEOC") complaint indicates litigation is reasonably anticipated. Open Records Decision Nos. 386 at 2 (1983), 336 at 1 (1982). By showing that a complaint that has been filed with the EEOC and the Texas Commission on Human Rights is pending, you have shown that litigation is reasonably anticipated. Based upon the information provided and your arguments, we agree that you have shown that the requested records are related to the anticipated litigation. Thus, the city has met both prongs of section 552.103(a).

You may withhold the records at issue that the opposing party in the anticipated litigation has not had access to and that have not otherwise been made public. Once information has

been obtained by all parties to the litigation, no section 552.103(a) interest generally exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). The applicability of section 552.103(a) also ends once the litigation has concluded. Attorney General Opinion MW-575 (1982), Open Records Decision No. 350 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 123689

encl. Submitted documents

cc: Mr. Terry Davis
14 Windermere East
Leander, Texas 78641
(w/o enclosures)